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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/307,956	05/10/99	SCHNEIDER	J 13394

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EXAMINER

ISABELLA, D

ART UNIT

PAPER NUMBER

3738

3

DATE MAILED: 08/09/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/307,956

Applicant(s)  
SCHNEIDER

Examiner  
ISABELLA, DAVID J.

Group Art Unit  
3738



☒ Responsive to communication(s) filed on May 10, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,7,8,9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brendel et al.

Brendel, et al discloses an allograft derived from umbilical tissue that has been lyophilized.

The use of vien, arteries, straight and branching vessels are within the confines of the teachings of Brendel, et al.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dardik et al'526 and Pratt, et al (Laryngoscope 96) and Lau, etal and Chin.

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Dardik, et al discloses an allograft deried from the veins and arteries of the umbilical tissues. Dardik, et al uses tanning agents for reducing antigenicity and cleansing agents for removing blood and foreign substance from the graft tissue. Dardik then places the tissues on a polyester support. Pratt, et al teaches using freeze drying or lyophilizing for reducing tissue antigenicity. To reduce surface antigens of Dardik, et al by lyophilizing, to render the tissue more biocompatible due to lack of aldehydes residuals, would have been obvious from the teachings of Pratt, et al.

Lau, et al is specific to polyamide stents which may be used in combination with umbilical derived tissues. Since Dardik, et al is silent to the specifics of the polyesters, polyamides which is part of the polyesters family could be used in the fabrication of the stent for reinforcing the tissue derived from the umbilical tissues. The use of Nylon would have been obvious to one with ordinary skill in the art based upon engineering and design considerations of equivalent elements.

Chin teaches the use of bifurcated stent graft derived from umbilical source. The stents maybe placed in each leg of the bifurcated graft. Dardik, et al specification is directed to the broad concept of producing a tubular prosthesis from tissues derived from umbilical cord and treating and reinforcing the tissues. Though Dardik, et al is not specific to branching vessels, such vessels are well known in the art as taught by Chin and its use according to the methods of Dardik would have been obvious at the time of the invention thereof.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is (703) 308-3060. The

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Examiner's Supervisor, Vincent Millin, may be reached at (703) 308-1065. The group receptionist may be reached at (703) 308-0858.

Should Applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 308-3590. Should Applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



**DAVID J ISABELLA**

**PRIMARY EXAMINER**

**GROUP 3700**

dji

August 5, 2000